

Message Text

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ACTION IO-13

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TAGS: TSPA, AORG, ETEL, UN
SUBJECT: OUTER SPACE LEGAL SUBCOMMITTEE: APRIL 4, 1977

REF: USUN 1010

1. SUMMARY: FINAL WEEK OF LEGAL SUBCOMMITTEE'S (LSC'S)
SIXTEENTH SESSION OPENED APRIL 4 WITH BRIEF REVIEW OF DEFINI-
TION AND/OR DELIMITATION OF OUTER SPACE AND THEN DELS AGREED
TO A SCHEDULE TO COMPLETE WORK REMAINING ON ALL AGENDA ITEMS.
AFTER SHORT LSC MORNING SESSION US DEL MET WITH DELS FROM FRG,
UK AND JAPAN IN INFORMAL CAUCUS TO DISCUSS COMPROMISE LANGUAGE
FOR DRAFT PREAMBLE TO DBS PRINCIPLES. WORKING GROUP III (RE-
MOTE SENSING) RECONVENED IN AFTERNOON AND AGREED TO TENTATIVE
TEXT ON RIGHTS OF SENSED STATES TO HAVE ACCESS TO DATA AS
PRINCIPLE XI. MONGOLIAN DEL INITIATED LONG AND ACRIMONIOUS
DEBATE BY RESURRECTING TEXT ON SOVEREIGN RIGHTS OF STATES
OVER INFORMATION ON THEIR NATURAL RESOURCES. SOVDEL INSIS-
TENCE THAT THIS BE INTRODUCED AS A PRINCIPLE WAS COUNTERED
BY UK, US,. JAPAN DELS' INSISTENCE THAT THERE WAS NO COMMON
ELEMENT WHICH COULD JUSTIFY EVEN A TOTALLY BRACKETED VERSION
OF THIS TEXT BEING PUT FORTH AS A PRINCIPLE. END SUMMARY.

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2. DEFINITION/DELIMITATION. FINAL WEEK OF LSC'S 16TH
SESSION OPENED APRIL 4 WITH MORNING SESSION TO CONSIDER
AGENDA ITEM V ON THE QUESTION OF THE DEFINITION AND/OR
DELIMITATION OF OUTER SPACE. CHAIRMAN WYZNER BRIEFLY RE-
VIEWED THE LSC'S PAST EFFORTS ON THIS QUESTION; THERE WERE
NO SPEAKERS. WITH RESPECT TO THE WORK REMAINING ON ALL

AGENDA ITEMS, IT WAS AGREED TO ALLOCATE THE FINAL WEEK AS FOLLOWS: (A) APRIL 4, AFTERNOON SESSION, WORKING GROUP II ON REMOTE SENSING; (B) APRIL 5, LSC PLENARY ON DEFINITION/ DELIMITATION FOLLOWED BY MINI-GROUPS AND WG'S ON ALL AGENDA ITEMS AS NECESSARY; (C) APRIL 6, OPEN FOR RESOLUTION OF ANY REMAINING ITEMS; (D) APRIL 7, EXAMINATION OF DRAFT REPORT; AND (E) APRIL 8, MORNING SESSION, ADOPTION OF FINAL REPORT. LSC ADJOURNED WITH A REQUEST BY THE CHAIRMAN THAT INTERESTED DELEGATIONS CONTINUE THEIR INFORMAL DBS CONSULTATIONS.

3. DBS. USDEL THEN JOINED FRG, UK AND JAPAN IN AN INFORMAL CAUCUS TO DISCUSS POSSIBLE COMPROMISE LANGUAGE FOR DRAFT PREAMBLE TO DBS PRINCIPLES (REFTEL). UKDEL SAID HE WOULD PROPOSE FOLLOWING TEXT: QUOTE: RECOGNIZING THE IMPORTANCE OF THE FREE FLOW OF INFORMATION AND IDEAS, AND OF A BROADER EXCHANGE OF VIEWS BETWEEN ALL COUNTRIES OF THE WORLD, WITH DUE REGARD TO THE LEGITIMATE RIGHTS AND INTERESTS OF ALL STATES, PEOPLES AND INDIVIDUALS. END QUOTE.

4. THIS GROUP (WITHOUT JAPAN) THEN JOINED USSR, SWEDEN, CANADA, FRANCE, AUSTRIA, MEXICO AND ARGENTINA FOR FURTHER DISCUSSIONS, DURING THE COURSE OF WHICH IT BECAME EVIDENT THAT SUBSTANTIAL OPPOSITION EXISTED TO THE UK'S PROPOSED FORMULATION. MEXICO INSISTED ON RETAINING LANGUAGE CALLING FOR QUOTE STRICT RESPECT FOR THE SOVEREIGN RIGHTS OF STATES AND NON-INTERFERENCE IN THEIR INTERNAL AFFAIRS END QUOTE. AUSTRIA ADVOCATED DELETING ALL REFERENCES TO FREE FLOW, SOVEREIGNTY AND NON-INTERFERENCE. USSR SUGGESTED THE FOLLOWING: QUOTE: RECOGNIZING THE IMPORTANCE OF ACHIEVING LIMITED OFFICIAL USE

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THE LOFTY GOALS OF PEACE AND FRIENDSHIP AMONG ALL STATES AND PEOPLES, IN PARTICULAR THROUGH FACILITATION OF FREER AND WIDER DISSEMINATION OF INFORMATION (OF ALL KINDS), ON THE BASIS OF STRICT RESPECT FOR THE SOVEREIGN RIGHTS OF STATES AND NON-INTERFERENCE IN THEIR INTERNAL AFFAIRS. END QUOTE. INFORMAL MEETING BROKE UP WITHOUT ANY AGREEMENT.

5. FYI. UK (GREENWOOD) SUBSEQUENTLY SUGGESTED THAT, SINCE SOME DELS APPEAR LIKELY TO CONTINUE INSISTING ON STRONG LANGUAGE ON SOVEREIGNTY AND NON-INTERFERENCE, THE ADVOCATED OF FREE FLOW SHOULD PREPARE AND SUPPORT INCLUSION OF A STRONGER STATEMENT THAN PARA 2 OF CANADA/ SWEDEN PREAMBLE (REFTEL). PROPOSED UK TEXT: QUOTE: RECOGNIZING THE IMPORTANCE OF THE RIGHT OF EVERYONE TO FREEDOM OF EXPRESSION, INCLUDING THE RIGHT TO SEEK, RECEIVE AND IMPART INFORMATION AND IDEAS REGARDLESS OF FRONTIERS, AS ENSHRINED IN INSTRUMENTS OF THE UNITED NATIONS RELATING TO UNIVERSAL HUMAN RIGHTS. END QUOTE.

END FYI.

6. WORKING GROUP III (REMOTE SENSING) RECONVENED IN AN AFTERNOON SESSION TO DISCUSS PAPER THAT RESULTED FROM WORKING GROUP DISCUSSIONS ON MARCH 25 ON RIGHTS OF SENSED STATES TO HAVE ACCESS TO DATA (REF WP 6 POUCHED MARCH 28). AFTER PROTRACTED DISCUSSION, FOLLOWING TEXT WAS TENTATIVELY ADOPTED BY WG III AS PRINCIPLE XI:

"A SENSED STATE (BRACKETS) SHALL (BRACKETS)(BRACKETS) SHOULD (BRACKETS) HAVE TIMELY AND NON-DISCRIMINATORY ACCESS TO DATA OBTAINED BY REMOTE SENSING (BRACKETS) OF THE NATURAL RESOURCES OF THE EARTH(BRACKETS)(BRACKETS) AND ITS ENVIRONMENT (BRACKETS) FROM OUTER SPACE, PERTAINING TO ITS TERRITORY ON REASONABLE TERMS (BRACKETS) TO BE MUTUALLY AGREED UPON WITH THE SENSING STATE(BRACKETS) AND TO THE EXTENT FEASIBLE AND PRACTICABLE, (BRACKETS) SHALL(BRACKETS)(BRACKETS) LIMITED OFFICIAL USE

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SHOULD(BRACKETS) BE PROVIDED WITH SUCH DATA ON SUCH TERMS (BRACKETS) ON A CONTINUOUS AND PRIORITY BASIS (BRACKETS) (BRACKETS) AND IN ANY CASE NO LATER THAN ANY THIRD STATE (BRACKETS)"

7. MONGOLIAN DEL (NYAMDO) THEN PROVOKED A RATHER ACrimonious DEBATE BY REINTRODUCING THE TEXT OF WP.4 REV.1 OF MARCH 24 (POUCHED OPPEL 4/24/77) WHICH STATES THAT REMOTE SENSING SHOULD BE CONDUCTED WITH RESPECT FOR THE PRINCIPLE OF FULL AND PERMANENT SOVEREIGNTY OF STATES AND PEOPLES OVER THEIR WEALTH AND NATURAL RESOURCES INCLUDING INFORMATION CONCERNING THOSE RESOURCES. SUPPORTING MONGOLIA WERE HUNGARY, BULGARIA, USSR, KENYA, NIGERIA. BRAZIL DEL (LINDENBERG SETTE) SUPPORTING SUBSTANCE OF THE MONGOLIAN TEXT SAID THAT NO ONE TODAY COULD MAINTAIN THAT INFORMATION ABOUT A COUNTRY WAS AVAILABLE WITHOUT LIMITATIONS. HE THEN RAISED THE ISSUE OF THE REQUIREMENT FOR CONSENSUS WITHIN THE LSC AND THAT IF ALL DELS COULD NOT AGREE WITH THE TEXT THEN ENTIRE TEXT SHOULD BE BRACKETED. SOVDEL THEN INSISTED THAT THIS TEXT BECOME A DRAFT PRINCIPLE.

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ACTION IO-13

INFO OCT-01 ISO-00 AF-08 ARA-06 EA-07 EUR-12 NEA-10
ACDA-07 CIAE-00 DODE-00 PM-04 INR-07 L-03 NSAE-00
NASA-01 NSC-05 ERDA-05 OES-06 H-01 PA-01 PRS-01
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8. UK DEL (GREENWOOD) SPOKE AGAINST THE INTRODUCT-
TION OF THIS AS A PRINCIPLE. RE SUBSTANCE HE SAID THAT
NO COUNTRY HAS RIGHT OF SOVEREIGNTY OVER INFORMATION ABOUT
ITS COUNTRY. RE PROCEDURE HE STRESSED THAT THERE WERE NO
COMMON ELEMENTS SUPPORTING THIS DOCUMENT AND UK WOULD OB-
JECT EVEN TO INTRODUCTION OF TOTALLY BRACKETED TEXT. UK
DEL REASONING WAS THAT PUTTING THE ENTIRE TEXT IN SQUARE
BRACKETS WOULD GIVE THE IMPRESSION THAT THE WORKING GROUP
HAD AGREED THERE SHOULD BE A PRINCIPLE ON THE BASIS OF A
NON-EXISTENT COMMON ELEMENT. ITALIAN DEL (MAGNO) EX-
PRESSED SURPRISE THAT, IN LIGHT OF PAST DISCUSSIONS, ANY
DELS WOULD WANT TO RE-INSERT THIS TEXT (EVEN WITH BRACKETS)
AS A DRAFT PRINCIPLE. JAPAN DEL (KATO) AGREED WITH UK
ANALYSIS THAT THERE WAS NO COMMON ELEMENT. NIGERIAN
DEL (MACAULEY) IN A STATEMENT STRONGLY SUPPORTING THE
MONGOLIAN PROPOSAL REFERRED TO ISSUE OF CONSENSUS. PRE-
FACING HIS COMMENTS WITH A STATEMENT THAT HIS COUNTRY
WOULD NOT WANT TO DISRUPT THE FREE FLOW OF INFORMATION,
NIGERIAN DEL SAID THAT THERE WAS NOT AN ABSOLUTE REQUIRE-
MENT FOR CONSENSUS IN THE LSC BUT RATHER, UNDER HIS INTER-
PRETATION OF UNGA INSTRUCTIONS, ONLY CONSENSUS TO THE
GREATEST EXTENT POSSIBLE, AND THEREFORE THE DOCUMENT COULD
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GO FORWARD FOR CONSIDERATION TO THE MAIN COMMITTEE EVEN
WITHOUT CONSENSUS.

9. SOVDEL (MAIORSKI) URGED THAT TEXT BE INCLUDED AS
PRINCIPLE 12 WITH SQUARE BRACKETS.

10. UK DEL THEN REITERATED HIS EARLIER POINT OF THE LACK
OF A COMMON ELEMENT WHICH APPEARED TO STIMULATE SOVDEL
TO INSIST THAT A MODIFIED VERSION OF THE TEXT BE ADDED AS
A SECOND PARAGRAPH IN BRACKETS TO PRINCIPLE NUMBER EIGHT

OF LAST YEAR'S LSC SESSION (EXCLUDING 7TH LINE BEGINNING WITH THE WORD "WITH" AND ENDING IN 9TH LINE WITH "LAW"). UK OBJECTED TO THIS PROCEDURE STRESSING THAT THIS IS A FORM OF "CONJURY," THAT IS, TAKING SOMETHING THAT HAS NOT EVEN A COMMON ELEMENT AND ADDING IT TO A PRINCIPLE. SOVDEL INSISTED HE HAD THE RIGHT TO DO THIS. US DEL SUPPORTED UK POSITION OBJECTING TO USSR SUGGESTED PROCEDURE.

11. THROUGHOUT AFTERNOON DISCUSSIONS (PARAS 7-9), USDEL TOOK STRONG POSITION IN OPPOSITION TO INTRODUCTION OF MONGOLIAN PROPOSAL AS A DRAFT PRINCIPLE, ON THE GROUNDS THAT NO COMMON ELEMENT OR AGREEMENT EXISTED ON THE BASIS OF WHICH TO FORMULATE ANY SUCH PRINCIPLE. USDEL ACTIVELY PURSUED POINTS PREVIOUSLY MADE WHEN THIS ISSUE AROSE DURING SECOND WEEK OF SESSION (USUN 902 AND 932). UPON CONTINUED INSISTENCE BY USSR, USDEL POINTED OUT DANGER OF DEPARTING FROM TWO STEP PROCEDURE, WHICH COULD LEAD TO BREAKDOWN OF CONSENSUS MECHANISM IN LSC. SHERER

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